

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

THOMAS SMITH,

Plaintiff,

v.

PEOPLES GAS, a foreign corporation,
EQUIFAX INFORMATION SERVICES,
LLC, a foreign limited liability company,
EXPERIAN INFORMATION
SOLUTIONS, INC., a foreign corporation,
and **TRANS UNION, LLC,** a foreign
limited liability company,

Defendants.

CIVIL ACTION NO. _____

Plaintiff Demands Jury Trial

COMPLAINT

COMES NOW Plaintiff by and through the undersigned, and would show unto this Honorable Court as follows:

PRELIMINARY STATEMENT

1. This Complaint seeks actual, compensatory, statutory and punitive damages, including injunctive and declaratory relief, brought by an individual consumer against Defendants, jointly and severally, for violations of the Fair Credit Reporting Act, 15 U.S.C. §1681 *et seq.* (hereinafter referred to as the “FCRA”), the Alabama Deceptive Trade Practices Act, Ala. Code 1975, §8-19-1, *et seq.* (hereinafter referred to as the “ADTPA”), and state common law causes of action.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under the FCRA, 15 U.S.C. §1681, 28 U.S.C. §1331, and the doctrine of supplemental jurisdiction pursuant to 28 U.S.C. §1367. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202. Defendants' violations of Plaintiff's rights, as alleged herein, occurred in Tuscaloosa County, Alabama, and were committed within the Western Division of the Northern District of Alabama.

PARTIES

3. Plaintiff Thomas Smith (hereinafter referred to as "Plaintiff") is a natural person and a resident and citizen of Tuscaloosa County, Alabama, and of the United States. Plaintiff is a "consumer" as that term is defined by the FCRA and Ala. Code 1975 §8-19-3(2).

4. Defendant Equifax Information Services, LLC (hereinafter referred to as "Equifax" or "Defendant") is a foreign limited liability corporation licensed to do business within the state of Alabama. Equifax is a consumer reporting agency, as defined in section 1681a(f) of the FCRA, regularly engaged in the business of assembling, evaluating, and dispersing information to third parties concerning consumers as defined in section 1681a(d) of the FCRA.

5. Defendant Trans Union, LLC (hereinafter referred to as "Trans Union" or "Defendant") is a foreign limited liability corporation licensed to do business within the state of Alabama. Trans Union is a consumer reporting agency, as defined in section 1681a(f) of the FCRA, regularly engaged in the business of assembling, evaluating, and dispersing information to third parties concerning consumers as defined in section 1681a(d) of the FCRA.

6. Defendant Experian Information Solutions, Inc. (hereinafter referred to as "Experian" or "Defendant") is a foreign corporation licensed to do business within the state of Alabama.

Experian is a consumer reporting agency, as defined in section 1681a(f) of the FCRA, regularly engaged in the business of assembling, evaluating, and dispersing information to third parties concerning consumers as defined in section 1681a(d) of the FCRA.

7. Defendant Peoples Gas (hereinafter referred to as “Peoples Gas” or “Defendant”) is a foreign corporation doing business in the state of Alabama with its corporate headquarters located in Chicago, Illinois.

FACTUAL ALLEGATIONS

8. In or around September, 2009, Plaintiff obtained copies of his credit files from both Equifax and Trans Union.

9. Plaintiff discovered that all three major credit reporting agencies, Equifax, Experian and Trans Union, were reporting that Plaintiff had an outstanding and/or delinquent balance with Peoples Gas. More specifically, these entities were reporting that Plaintiff had formerly resided in Chicago, Illinois and was delinquent on a utility services account for such residence. Plaintiff resides in Tuscaloosa, Alabama, and has never resided or obtained utility service in Chicago, Illinois.

10. Thereafter, Plaintiff disputed the validity of such account with Defendants.

11. Notwithstanding such dispute, Defendants continue to publish such inaccurate and derogatory information in Plaintiff’s credit files. Essentially, Defendants have failed and/or refused to conform their conduct to the FCRA.

COUNT ONE - VIOLATIONS OF THE FCRA EQUIFAX, EXPERIAN AND TRANS UNION

12. Plaintiff incorporates herein by reference the allegations contained within the foregoing paragraphs.

13. Defendants have been reporting derogatory and inaccurate information relating to Plaintiff and Plaintiff's credit history to third parties.

14. The inaccurate information about which Plaintiff complains is an account, or trade-line, entitled People's Gas or People's Energy reflecting that he owes approximately \$2,000 to Peoples Gas.

15. The inaccurate information negatively reflects upon the Plaintiff, Plaintiff's credit repayment history, Plaintiff's financial responsibility, and Plaintiff's creditworthiness.

16. Despite Plaintiff's efforts, Defendants have deliberately, willfully, intentionally, recklessly, negligently and repeatedly failed to perform a reasonable investigation regarding the disputed information as required by the FCRA. They have also failed to remove the inaccurate information, or to note the disputed status of the inaccurate information, and have continued to report the derogatory and inaccurate information in Plaintiff's credit files.

17. Because of Defendants misconduct:

- a. Plaintiff was denied credit by American Standard Heating and Air Conditioning on July 22, 2009;
- b. Plaintiff has been caused to incur unnecessary expenses associated with disputing the information;
- c. Plaintiff has been caused to suffer emotional distress and mental anguish associated with having inaccurate and derogatory information disseminated to third parties; and
- d. Plaintiff has suffered a decrease in his credit score which has resulted in his

inability to obtain credit.

18. At all times pertinent hereto, Defendants were acting by and through their agents, servants and/or employees who were acting within the course and scope of their agency or employment. Likewise, such conduct was malicious, intentional, willful, reckless, and in gross disregard of both federal and state laws as well as the rights of Plaintiff.

19. Pursuant to 15 U.S.C. §1681n and 15 U.S.C. §1681o, Defendants are liable to Plaintiff for engaging in the following conduct:

(a) willfully and negligently failing to conduct a proper and reasonable investigation concerning the inaccurate information after receiving the dispute from Plaintiff in violation of 15 U.S.C. §1681i(a);

(b) willfully and negligently failing to submit all relevant information provided by Plaintiff regarding the inaccurate information to the furnishing entities pursuant to 15 U.S.C. §1681i(a);

(c) willfully and negligently failing to review and consider all relevant information submitted by Plaintiff concerning the dispute in violation of 15 U.S.C. 1681i(a);

(d) willfully and negligently failing to delete the inaccurate information from Plaintiff's credit file after reinvestigation in violation of 15 U.S.C. 1681i(a);

(e) willfully and negligently failing to note Plaintiff's dispute of the inaccurate information in subsequent consumer reports in violation of 15 U.S.C. §1681i(c); and

(f) willfully and negligently failing to employ and follow reasonable procedures to assure maximum possible accuracy of Plaintiff's credit file in violation of 15 U.S.C. §1681e(b);

20. Defendants' conduct was a direct and proximate cause, as well as a substantial factor, in bringing about the injuries, damages, and harm to Plaintiff, which are outlined herein, and as a

result, Defendants are liable to Plaintiff for statutory, actual, and punitive damages, attorney's fees, costs of litigation, and such further relief as may be permitted by law.

COUNT TWO – DEFAMATION
ALL DEFENDANTS

21. Plaintiff incorporates herein by reference the allegations contained within the foregoing paragraphs.

22. Defendants have published inaccurate and derogatory information to various creditors, prospective creditors, other credit reporting agencies, as well as other entities, regarding Plaintiff and Plaintiff's creditworthiness.

23. Defendants have published these statements each time Plaintiff's credit reports are requested by any creditor, prospective creditor, or other entity.

24. The statements made by Defendants are false in that such inaccurately reflect Plaintiff's credit information and debt repayment history, and indicate that Plaintiff is financially irresponsible.

25. Defendant published these statements, at a minimum, to every single creditor, prospective creditor, or other entity that has requested Plaintiff's credit report.

26. After Plaintiff disputed this information, Defendants knew or should have known that such information was false and they had no factual basis for continuing to publish the same. Nevertheless, Defendants have published and continue to publish such inaccurate information.

27. In addition, despite repeated notices from Plaintiff, Defendants have acted with malice by failing to communicate the information provided to them by Plaintiff to all creditors, prospective creditors, and all other entities to whom they provide credit information concerning Plaintiff.

28. Defendants' conduct was the direct and proximate cause, as well as a substantial factor, in bringing about the serious injuries, damages, and harm to Plaintiff that are outlined herein, and as a result, Defendants are liable to Plaintiff for actual, compensatory, and punitive damages, as well as such other relief permitted by law.

COUNT THREE - VIOLATIONS OF FCRA
PEOPLE'S GAS

29. Plaintiff incorporates herein by reference the allegations contained within the foregoing paragraphs.

30. Defendant violated the FCRA, specifically 15 U.S.C. § 1681s(2)(b), by engaging in the following conduct:

(a) Willfully and negligently failing to conduct an investigation of the inaccurate information that Plaintiff disputed after receiving notice of the same from Equifax, Experian and Trans Union;

(b) Willfully and negligently failing to review all relevant information concerning Plaintiff's account provided to Defendant by Equifax, Experian and Trans Union;

(c) Willfully and negligently failing to report the disputed status of the account to Equifax, Experian and Trans Union;

(d) Willfully and negligently failing to properly participate, investigate and comply with the reinvestigation procedures that were conducted by any and all credit reporting agencies concerning the inaccurate information disputed by Plaintiff;

(e) Willfully and negligently continuing to furnish and disseminate inaccurate and derogatory credit, account and other information concerning Plaintiff to credit reporting agencies and other entities despite knowing that such information was inaccurate; and

(f) Willfully and negligently failing to comply with the requirements imposed on furnishers of information pursuant to 15 U.S.C. §1681s-2;

31. Defendant's conduct was the direct and proximate cause, as well as a substantial factor, in bringing about the injuries, damages and harm to Plaintiff which are outlined more fully above and as a result, Defendant is liable to Plaintiff for statutory, actual and punitive damages, attorney's fees and costs, as well as such other relief as may be permitted by law.

COUNT FOUR - NEGLIGENCE, RECKLESS AND WANTON CONDUCT
ALL DEFENDANTS

32. Plaintiff incorporates herein by reference the allegations contained within the foregoing paragraphs.

33. As described herein, Defendants acted negligently and without care or concern for the well-being of Plaintiff.

34. As a proximate consequence of Defendants' negligence, Plaintiff has been caused to suffer severe emotional and mental distress, and Defendants are liable to Plaintiff for actual, compensatory, and punitive damages, costs and attorney's fees, and any other and further relief deemed appropriate by this Court.

COUNT FIVE – INVASION OF PRIVACY
ALL DEFENDANTS

35. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

36. Defendants' conduct, as described herein, constitutes an invasion of Plaintiff's privacy in that it intrudes into Plaintiff's private life, publishes private facts regarding Plaintiff and places Plaintiff in a false light in the eyes of those to whom the publications are made.

37. Defendants acted maliciously, without privilege, and with a willful intent to injure Plaintiff.

38. As a proximate cause of Defendants' invasion of Plaintiff's privacy, Plaintiff has been caused to suffer severe emotional and mental distress and Defendants are liable to Plaintiff for actual, compensatory, and punitive damages, costs and attorney's fees, and any other and further relief deemed appropriate by this Court.

COUNT SIX – DECLARATORY AND INJUNCTIVE RELIEF
PEOPLE'S GAS

39. Plaintiff incorporates the foregoing paragraphs as though the same were set forth fully herein.

40. A dispute exists as to whether Defendant has violated the FCRA, federal law or state law.

41. Plaintiff is entitled to injunctive relief, declaratory judgment, and a determination that Defendant violated the FCRA, federal law, and state law, as well as a corresponding order enjoining said acts.

42. As a result of Defendant's actions, omissions and violations, Plaintiff is entitled to actual, compensatory, statutory and punitive damages, reasonable attorney's fees, and all costs for time lost at work and litigating this matter.

43. Defendant's actions, omissions, and violations, as alleged herein, constitute negligent and intentional infliction of mental and emotional distress upon Plaintiff, proximately causing Plaintiff to suffer past and continued, mental and physical pain, embarrassment and humiliation.

PRAYER FOR RELIEF

WHEREFORE, THE PREMISES CONSIDERED, Plaintiff respectfully prays that judgment be entered against Defendants, jointly and severally, by this Court for the following:

- a) Enter injunctive and corresponding declaratory relief establishing the foregoing conduct of Peoples Gas to be unlawful, enjoining such Defendant from continuing to engage in such conduct, and granting such additional equitable relief as may be appropriate;
- b) Award Plaintiff actual damages;
- c) Award Plaintiff punitive damages;
- d) Award Plaintiff statutory damages where applicable;
- e) Award Plaintiff compensatory damages for emotional and mental distress, humiliation and embarrassment;
- f) Award Plaintiff reasonable attorney's fees and costs of this litigation; and
- g) Grant such other and further relief as this Honorable Court deems just and proper.

RESPECTFULLY SUBMITTED this the ____ day of January, 2010.

/s/ Anthony B. Bush
Anthony Brian Bush (BUS028)
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Attorney for Plaintiff

Defendants may be served at the following addresses:

Equifax Information Services, LLC
c/o CSC Lawyers Incorporating Services, Inc.

150 S. Perry Street
Montgomery, AL 36104

Experian Information Solutions, Inc.

c/o The Corporation Company
2000 Interstate Park Drive, Suite 204
Montgomery, Alabama 36109

Trans Union, LLC

c/o Prentice-Hall Corporation System, Inc.
150 S. Perry Street
Montgomery, AL 36104

People's Gas

130 East Randolph Drive
Chicago, IL 68601